



The  
THE FAMILY LAW SECTION  
respectfully submits the following position on:

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**HB 5698**

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan. To date, the State Bar of Michigan does not have a position on this matter.

The total membership of the Family Law Section is 2,585.

The position was adopted after review and vote by members elected to the Family Law Section's Council. The number of members in the decision-making body is 21. The number who voted in favor to this position was 14. The number who voted opposed to this position was 0.





## Report on Public Policy Position

**Name of Section:**

Family Law Section

**Contact Person:**

Kent Weichmann

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**Bill Number:**

HB 5698 (Vander Veen) Family law; marriage and divorce; divorce; require a divorce effects program before entry of judgment of divorce. Amends 1846 RS 84 (MCL 552.1 - 552.45) by adding sec. 5.

**Date position was adopted:**

March 4, 2006

**Process used to take the ideological position:**

Vote of Council members present at Council

**Number of members in the decision-making body:**

21

**Number who voted in favor and opposed to the position:**

14-0

**FOR SECTIONS ONLY:**

This subject matter of this position is within the jurisdiction of the section.

The position was adopted in accordance with the Section's bylaws.

The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

**Position:**

HB 5698 would require parties to a divorce involving minor children to complete a Divorce Effects Program and a Questionnaire, on pain of contempt. The Divorce Effects Program seems similar to the SMILE program that most courts have voluntarily implemented.

The questionnaire asks the parties to consider whether divorce will improve or diminish their quality of life and family relationships. It isn't clear what happens to the questionnaire, but it may be reviewed by the program provider, the court, and law enforcement personnel, including a prosecutor.

The Council opposed the bill as drafted. The Council had no problem with requiring a SMILE type program,



although we had concerns about the appropriateness of contempt as a remedy for non-attendance. The Questionnaire requirement was strongly opposed. It requires each party to submit short essays on intensely personal subjects, without any clear sense of the purpose of the document. It cannot be placed in the court file, because it is not a public document, yet it can be reviewed by the court and law enforcement. If the court can review the questionnaire, the other party must also be granted access to the answers, to comply with due process. This would restrain a party from submitting any but the most cursory answers. It seems designed to pressure plaintiffs into retracting their complaint. It was suggested that such a questionnaire could be part of the premarital education but not a requirement for divorce.

**The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:**

[http://www.legislature.mi.gov/\(0rngndv5tvj3aw45nhbiuh45\)/mileg.aspx?page=BillStatus&objectname=2006-HB-5698](http://www.legislature.mi.gov/(0rngndv5tvj3aw45nhbiuh45)/mileg.aspx?page=BillStatus&objectname=2006-HB-5698)